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SUBJECT: THAILAND: 2010 INVESTMENT CLIMATE STATEMENT

REF: 09 STATE 124006

¶1. (U) Per reftel request, below is Post's draft of the 2010 Investment Climate Statement (ICS) for Thailand. We also e-mailed a Microsoft Word version to EB/IFD/OIA (David J. Ahn and Thomas J. Walsh), per reftel instructions.

¶2. (U) Begin text:

Chapter 6: Investment Climate

- Openness to Foreign Investment
- Conversion and Transfer Policies
- Expropriation and Compensation
- Dispute Settlement
- Performance Requirements and Incentives
- Right to Private Ownership and Establishment
- Protection of Property Rights
- Transparency of Regulatory System
- Efficient Capital Markets and Portfolio Investment
- Corporate Social Responsibility
- Political Violence
- Corruption
- Bilateral Investment Agreements
- OPIC and Other Investment Insurance Programs
- Labor
- Foreign Trade Zones/Free Ports
- Foreign Direct Investment Statistics

Openness to Foreign Investment

Despite several major investment disputes in 2009, Thailand continues to maintain an open, market-oriented economy and encourages foreign direct investment as a means of promoting economic development, employment, and technology transfer. In recent decades, Thailand has been a major destination for foreign direct investment, and hundreds of U.S. companies have invested here successfully. Thailand continues to welcome investment from all countries and seeks to avoid dependence on any one country as a source of investment.

In 2009, most investors remained cautiously hopeful that the political situation would become less tumultuous and allow the government to pursue more business-friendly policies. Unfortunately, the November 2008 closure of Bangkok's airports, widely watched political protests in April, and the onset of the global economic crisis made it difficult for Prime Minister Abhisit to restore the business and investor confidence in Thailand's economy after several years of political turmoil. By the end of the year, the dominant

issues with regard to Thailand's investment climate revolved around the court-ordered shutdown of 65 construction projects at Map Ta Phut, one of Thailand's most important industrial estates, over allegations that the government failed to follow the 2007 Constitution's requirements for environmental and health impact assessments when approving the new industrial projects. However, implementing legislation for these constitutional provisions had never been finalized -- a significant legal quandary that the government hopes to resolve in 2010. The affected companies, including many major foreign investors, remain concerned about how and when the dispute will be resolved.

After posting 4.8 percent growth (year-on-year) in the first nine months of 2008, the Thai economy dropped 4.2 percent in the last quarter -- the first contraction of the economy since the 1997-98 Asian Financial Crisis. The global financial crisis of 2008 and the continued political tension in Thailand led to a 2.6 percent drop in GDP in 2008, much lower than the 5 percent average growth of recent years. This slippage continued in 2009, with the economy contracting by 5 percent (year-on-year) through September. The hardest hit sectors were exports and private investment, both of which represent around 80 percent of GDP. As the global markets recover from the recessions, the Thai government revised its projections for 2009 to negative 3 percent, with a turnaround in the last quarter of 2009. The government estimates GDP growth of 3 to 4 percent in 2010.

In the wake of the 1997-98 Asian Financial Crisis, Thailand embarked on an International Monetary Fund (IMF)-sponsored economic reform program designed in part to foster a more competitive and transparent climate for foreign investors. Legislation establishing a new bankruptcy court, reforming bankruptcy and foreclosure procedures, and allowing creditors to pursue payment from loan

guarantors was enacted in 1999. Other 1999 reforms include amendments to the Land Code, Condominium Act, and the Property Leasing Act, all of which liberalized restrictions on property ownership by non-Thais. The Foreign Business Act (FBA) of 1999 governs most investment activity by non-Thai nationals and opened limited additional business sectors to foreign investment. Nevertheless, foreign investment in most service sectors is limited to 49 percent ownership.

Many U.S. businesses, however, enjoy investment benefits through the U.S.-Thailand Treaty of Amity and Economic Relations (AER), originally signed in 1833. The 1966 iteration of the Treaty allows U.S. citizens and businesses incorporated in the U.S., or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai companies, exempting them from most of the restrictions on foreign investment imposed by the Foreign Business Act. Under the Treaty, Thailand restricts American investment only in the fields of communications, transport, fiduciary functions, banking involving depository functions, the exploitation of land or other natural resources, and domestic trade in agricultural products. Prospective U.S. investors who would like to benefit from the Treaty must first verify their nationality by obtaining a certified letter from the U.S. Embassy in Bangkok. The investor must then present the letter to the Ministry of Commerce, along with an application form for a business operation certificate. This process typically takes less than one month. Notwithstanding their Treaty rights, many Americans choose to form joint ventures with Thai partners, allowing the Thai side to hold the majority stake because of the advantages that come from familiarity with the Thai economy and local regulations.

Americans planning to invest in Thailand are advised to obtain qualified legal advice. Such advice is particularly important given the fact that Thai business regulations are governed predominantly by criminal law, not civil law. While foreigners rarely are jailed for improper business activities, violation of Thai business regulations can carry heavy criminal penalties.

Thailand has removed tax disincentives on buying domestic financial institutions. The Financial Institutions Act passed at the end of 2007 gave power to the Bank of Thailand (the country's central bank) to raise the foreign ownership limit in a local bank from 25 percent

to 49 percent on a case-by-case basis. The Act also allows the Minister of Finance to authorize foreign ownership above 49 percent. In January 2009, the Ministry of Finance allowed Malaysian's CIMB Group to hold majority shares (around 93 percent) in BankThai Bank, the country's ninth largest commercial bank.

Under the Bank of Thailand's new five-year Financial Sector Master Plan Phase II (FSMP II), which was approved by the Cabinet in early November 2009, foreign banks, which were restricted to a single branch, will be allowed to open two more additional branches from ¶2010. The FSMP II will also allow existing foreign full branches to upgrade to subsidiaries and open a maximum of 20 branches and 20 off-premise ATMs. Details of the FSMP II are available in English at http://www.bot.or.th/.

The 2008 Life Insurance Act and the 2008 Non-Life Insurance Act requires that an insurance company must have Thai shareholders who possess more than 75 percent of total number of 'voting' share sold. Foreign ownership is therefore capped to 25 percent of voting share sold. The 2008 laws provide a five-year compliance period until February 2013. If companies do not comply by 2013, they will be unable to open new branches and can be fined up to 200,000 Thai baht (approximately US$6,000) plus daily fines of up to 10,000 Thai baht (approximately US$300). However, the new laws also allow the government insurance regulator (the Office of Insurance Commission) to authorize foreign ownership up to 49 percent on a case-by-case basis. The Minister of Finance, with a recommendation from the Office of Insurance Commission, could grant approval to allow foreign ownership limit to exceed 49 percent.

Business Registration: Any entity wishing to do business in Thailand must register with the Department of Business Development at the Ministry of Commerce. Firms engaging in production activities need to register with the Ministries of Industry and Labor and Social Welfare. If the entity falls under the definition of non-Thai national as defined by the Foreign Business Act, they have to obtain a 'foreign business license' (or a certificate for US investors as mentioned above), which must be approved by the Council of Ministers (Cabinet) or Director-General of Department of Business Development at the Ministry of Commerce depending on types of restricted businesses.

Work Permits: U.S. citizens can enter Thailand without a visa for visits of up to thirty days. In order to apply for a work permit, a foreigner must enter Thailand on a non-immigrant visa (issued at Thai embassies and consulates) for a stay of three months or, for foreigners with well-defined work or business plans, for a stay of one year. Issuance of the three-month visa usually is completed within two or three days; the one-year visa requires approval from the Immigration Bureau of the Royal Thai Police in Bangkok. Upon obtaining a work permit, a holder of a three-month visa may apply for a one-year visa, which generally can be extended every year. Foreigners holding nonimmigrant visas who have lived in Thailand for at least three consecutive years may apply for permanent residence in Thailand if they meet strict criteria regarding investment or professional skills.

Many occupations are reserved exclusively for Thai nationals, including professional services such as accounting, architecture, law, and engineering. The 2008 Alien Occupation Act, which lists these prohibited occupations, also states that all non-Thai persons working in Thailand must possess a work permit issued by the Ministry of Labor. Some foreigners already working in Thailand are exempted through a "grandfather" clause. Factors that influence the granting of work permits include the degree of specialization required by the position; the size of the firm in terms of number of employees and registered capitalization; and the ratio of Thai nationals to foreigners employed by the firm. Foreigners working for the Thai government or working on projects promoted by the Board of Investment (BOI) usually have little difficulty obtaining work permits and typically receive their permits within seven days of application. The duration of the work permit is generally tied to the length of stay permitted by the person's visa. Government policy creates a preference for Thai nationals in the hiring of government

consultants, although the government continues to hire foreign consultants. Work permits in other areas are sometimes difficult to obtain, despite the fact that senior manager and technical personnel are in short supply.

Foreigners who want to do volunteer work are also required to obtain work permits according to the law. Foreigners found to be working (including volunteers) without work permits could be imprisoned up to five years and/or fined between 2,000 and 100,000 Thai baht (approximately US$60 to US$3,000). However, the law does not apply to individuals in officially recognized delegations (e.g. diplomatic or consular); persons performing duties or missions in accordance with an agreement between the Royal Thai Government and foreign governments or international agencies; person performing duties or missions to the benefit of education, culture, arts, sports or other activities stipulated by Thai laws; or persons otherwise authorized by the Council of Ministers.

The law allows migrant workers from Burma, Laos and Cambodia to work as manual labor in certain industries such as textiles. Under the Alien Occupation Act, employers of unskilled workers are required to deduct a certain amount (to be specified by a Ministerial regulation issued by the Ministry of Labor) from salaries of their foreign workers and submit to a newly established 'Deportation Fund' which will be managed by a committee. The amount is made in a single payment and can vary depending on the associated cost of deporting such foreign workers back to their native country if necessary. If the amount is not fully collected from the foreign workers, employers are ultimately responsible for the payments. Foreign workers will be given receipts and will be reimbursed within 30 days after they have returned to their home country at their own expense. However, foreign workers must make a reimbursement claim with receipts within two years after their departure from any immigration check-point. Interest (7.5 percent per annum) will be paid only if the refund process exceeds 30 days after a claim.

Land Ownership: In general, non-Thai businesses and citizens are not permitted to own land in Thailand unless the land is on government-approved industrial estates. Under the 1999 amendment to the Land Code Act, foreigners who invest a minimum of 40 million Baht (approximately US$1.2 million) are permitted to buy up to 1,600 square meters of land for residential use with the permission of the Ministry of Interior. If the required land is not used as a residence within two years from the date of acquisition and registration, the Ministry has the power to dispose of the land. Petroleum concessionaires may own land necessary for their activities. Rather than purchasing, many foreign businesses instead sign long-term leases, and then construct buildings on the leased land. Under the 1999 Condominium Act, non-Thais were allowed to own up to 100 percent of a condominium building if they purchased the

unit between April 28, 1999 and April 28, 2004. Under the newer Condominium Act of 2007, foreign ownership in a condominium building, when added together, must not exceed 49 percent of the total space of all units in the building, except for those purchased between 1999 and 2004.

Privatization: With the aim of encouraging capital inflows and relieving resource constraints in many key sectors of the economy, the previous government of Thaksin Shinawatra eagerly embarked on a privatization program for state-owned economic enterprises and state monopolies. The interim government that followed the September 2006 coup considered privatization too controversial and put these plans on hold. Other than the Petroleum Authority of Thailand (PTT), the Airport Authority of Thailand (later renamed Airports of Thailand (AOT)) and the Mass Communication Organization of Thailand (MCOT), few significant privatizations have occurred. The 1999 State Enterprise Corporatization Act provides the framework for the conversion of state enterprises into stock companies, and corporatization is viewed as an intermediate step toward eventual privatization. (Note: "corporatization" describes the process by which an SOE adjusts its internal structure to resemble a publicly-traded enterprise; "privatization" means that a majority of the SOE's shares is sold to the public, and "partial privatization" refers to a situation in which less than half a company's shares are

sold to the public.) The current State Enterprise Policy Office under the Ministry of Finance does not have a power to regulate all SOEs, but the Ministry of Finance is in the process of drafting a comprehensive bill to set up a new regulatory and policy body to supervise all SOEs including those with partial privatization.

The following is a summary of Thailand's rankings in several international indexes, as well as the Millennium Challenge Corporation's score card.

Measure	Year	Index/Ranking
TI Corruption Index	2009	3.4/84
Heritage Economic Freedom	2009	63/67
World Bank Doing Business	2010	12
MCC Govnt Effectiveness	2009	0.54/87 percent
MCC Rule of Law	2009	0.41/63 percent
MCC Control of Corruption	2009	0.01/53 percent
MCC Fiscal Policy	2009	0.4/64 percent
MCC Trade Policy	2009	75.6/50 percent
MCC Regulatory Quality	2009	0.27/77 percent
MCC Business Startup	2009	0.971/69 percent
MCC Land Rights Access	2009	0.796/74 percent
MCC Natural Resource Mgmt	2009	97.79/93 percent

Conversion and Transfer Policies

Exchange controls are governed by the Exchange Control Act of 1942, amended in 1984, and Ministerial Regulation Number 13 of 154, and are administered by the Bank of Thailand. Inward remittances are free of controls. However, the Ministry of Finance issued a Ministerial Regulation, effective from October 28, 2007, to require any person who brings foreign currencies in or out of Thailand exceeding US$20,000 or the equivalent must declare the amount at a Customs check point. Foreigners staying in Thailand for less than three months, foreign embassies, and international organizations are exempt from this requirement.

In July 2007, the Ministry of Finance and the Bank of Thailand agreed to relax regulations on capital flows to balance capital movements and to increase flexibility for Thai businesses in managing their foreign currency holdings. The changes included abolishing the surrender requirement for all foreign currency receipts from abroad to be sold or deposited within 15 days; doubling the amount of foreign currency deposited with financial institutions in the country from US$0.5 million to US$1 million for individuals and from US$50 million to US$100 million for juristic persons with future foreign exchange obligations within the following 12 months, and increasing to US$0.1 million for individuals and to US$0.3 million for juristic persons without obligation. The deposit ceiling applies only to foreign currencies that are borrowed from financial institutions, but if foreign currencies are earned (not borrowed), the deposit ceiling restriction is not applied.

Thai nationals are subject to quantitative limits on the amount of foreign currency that can be remitted abroad without specific permission of the Bank of Thailand. The limits vary depending upon the purpose of the transaction, and range from US$100 million per

annum for business investment or loans to subsidiaries, to US$1 million per annum for remittances to family members. The Bank of Thailand must approve the purchase of immovable assets or securities abroad. The new regulation, however, also increases the limit of overseas fund remittances in foreign currencies up to US$1 million by Thai individual. In addition, the authorities also relaxed the repatriation requirement for exporters with foreign currency receipts by extending the period in which such receipts must be brought into the country from within 120 days, to within 360 days and requiring that the foreign currencies be deposited or sold with financial institutions within another 360 days.

Commercial banks are authorized to undertake most routine foreign remittance transactions without prior approval of the Bank of Thailand. Nonresidents can open and maintain foreign currency

accounts without deposit and withdrawal ceilings with authorized banks in Thailand. Such accounts must use funds that originate abroad. If nonresidents have underlying liabilities or transactions in Thailand, they can open and maintain Thai baht accounts under Nonresident Baht Accounts (NRBA) with authorized banks in the country; however, the combined outstanding of all NRBAs for each nonresident at the end of the day cannot exceed 300 million Baht (approximately US$9 million). Since February 2008, the Bank of Thailand has segregated the NRBA into two types: Nonresident Baht Account for Securities (NRBS) for investment in securities and other financial instruments, and Nonresident Baht Account (NRBA) for general purposes. Funds under the two types of NRBA could not be transferred to each other. The cap on NRBAs was introduced in October 2003 with the goal of limiting speculation on the Thai baht. All remittances exceeding US$10,000 for any purpose other than export must be reported to the Bank of Thailand.

Expropriation and Compensation

Private property can be expropriated for public purposes in accordance with Thai law, which provides for due process and compensation. In practice, this process is seldom used and has been principally confined to real estate owned by Thai nationals and needed for public works projects. U.S. firms have not reported any problems with property appropriation in Thailand.

Dispute Settlement

Thailand has a civil code, commercial code, and a bankruptcy law. Monetary judgments are calculated at the market exchange rate. Decisions of foreign courts are not accepted or enforceable in Thai courts. Disputes such as the enforcement of property or contract rights have generally been resolved through the Thai courts. Thailand has an independent judiciary that generally is effective in enforcing property and contractual rights. The legal process is slow in practice, however, and litigants or third parties sometimes affect judgments through extra-legal means.

In addition, companies may establish their own arbitration agreements. Thailand signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States in 1985, but has not yet ratified the Convention. Thailand is a member of the New York Convention and enacted its own rules on conciliation and arbitration in the Arbitration Act of 2002. The 2002 Arbitration Act adopted the principles under the United Nations Commission on International Trade Law (UNCITRAL). The Arbitration Office of the Ministry of Justice administers these procedures.

The Bankruptcy Act was amended in 1999 to provide Chapter 11-style protection to debtors, and to give debtors and creditors the option of negotiating a reorganization plan through the courts instead of forcing liquidation. The Act now allows creditors to extend additional loans to insolvent firms without losing the right to claim compensation during a future restructuring or liquidation process, but only if the new loan is intended to keep the firm in operation. Also in 1999, the Act was amended to facilitate the financial restructuring process. Higher minimum levels for individual and corporate bankruptcies were established, and the previous ten-year period of bankruptcy status was reduced to three years. The 1999 Bankruptcy Act also established a specialized court for bankruptcy cases. The Bankruptcy Courts are divided into the Central Bankruptcy Court which has jurisdiction throughout the Bangkok Metropolitan areas and the Regional Bankruptcy Courts.

In 2004, Parliament approved changes to the Bankruptcy Act including tightening the rules under which some debtors can emerge from

bankruptcy status and streamlining the legal appeals process in bankruptcy and restructuring cases. In an effort to quicken the foreclosure process, amendments to the Civil Procedure Code on Execution of Judgments have limited appeal options available to debtors. Under the old regulations, debtors were free to appeal each action taken with respect to the execution of a bankruptcy judgment.

Such appeals, often frivolous in nature, were one of the tactics debtors used to delay the foreclosure process. In June 2001, the Supreme Court set an important legal precedent by ruling in favor of implementing a creditor-backed corporate restructuring plan opposed by the former owner of the business in question. The Act was later amended in 2005 by granting the Bankruptcy Court the power to consider bankruptcy cases that involve criminal matters.

Individual cases can take months or even years to work their way through the legal system, however, and many businesses have urged the government to speed up the bankruptcy procedure. In 2006, new procedural rules were established to accelerate the bankruptcy court proceedings by encouraging the use of electronic equipment and express mail in communications between courts. Under the new rules, provincial courts have the authority to issue search warrants and arrest warrants, and to imprison or release a defendant. Other amendments to the Bankruptcy Act are currently under consideration.

In 2009, the Bankruptcy Court issued verdicts on 33,061 cases.

Performance Requirements and Incentives

Thailand committed to implement all WTO agreements, including Trade-Related Investment Measures (TRIMS). In its latest Trade Policy Review in November 2007, the WTO noted, "Thailand has maintained its support and commitment to the liberalization of the multilateral trading system, especially for agriculture. It also remains committed to "open regionalism" and considers regional trade liberalization an effective catalyst for freer trade and complementary to multilateralism." The report continued that WTO negotiations would improve market access and the predictability and stability of trade and investment. The report notes that a key challenge for Thailand's future economic performance is the government's ability to restore private investor confidence and to proceed with pending structural reforms, including stalled privatizations that would help improve the country's competitiveness. The report also underlines the need for Thailand to expand its tariff bindings and to simplify its relatively complex tariff regime. The services sector, which makes up a large part of the Thai economy, has benefited so far from liberalization but would grow further if multilateral commitments under the GATS were expanded, according to the review.

The Board of Investment (BOI), established by the Investment Promotion Act of 1977, is Thailand's central investment promotion authority.
Complete information on BOI policies, programs, incentives, and application procedures can be found on the BOI web site at www.boi.go.th.

In November 2009, BOI established the 'One Start One Stop Investment Center' as a centralized location to assist investors with the requirements of the various investment-related government agencies. Staff at the Center provide guidance to investors on how to register a company, obtain BOI's investment promotion privileges, obtain a foreign business license, complete an environmental impact assessment, request permission to use land for industrial operations, obtain utilities, and other related investment issues.

BOI identifies priority sectors (detailed below), covering hundreds of types of businesses eligible for investment incentives. Generally, the most generous incentives are offered to those projects that bring new technology to Thailand and those that invest in less-developed provinces. There are two basic types of BOI incentives: tax-based (including tax holidays and tariff exemptions) and non-tax privileges (guarantees, special permissions, services, etc.). The minimum investment amount is 1 million baht (approximately $30,000), excluding the cost of land and working capital. Projects with an investment of 10 million Thai baht (approximately US$300,000) or more, excluding the cost of land and working capital, are typically required to obtain international standards certifications, such as International Standards Organization (ISO) 9000. BOI requires investors to submit evidence of compliance with the conditions of their approval in order to claim incentive benefits. BOI previously lifted all local content

and export requirements.

Specific BOI incentives include:

- Tax incentives: exemptions or reductions of import duties on imported machinery; reductions of import duties on imported raw materials and components; exemptions from corporate income taxes for three to eight years; and, deductions from net income of infrastructure costs.

- Permissions: to bring in foreign nationals to undertake investment feasibility studies; to bring in foreign technicians and experts to work under promoted projects; to own land for carrying out promoted activities.

- Guarantees: against nationalization; against competition by new state enterprises; against state monopolization of the sale of products similar to those produced by promoted firms; against price controls; against tax-exempt import by government agencies or state enterprises of competitive products; and, of permission to export.

Tax incentives offer the greatest advantages, though their relative value has declined in recent years with the general reduction of import duties and elimination of the former business tax system. The Value Added Tax (VAT) Law, which eliminated the business tax exemption, has no provision for BOI to offer VAT exemptions or reductions. Investors must submit an application form along with supporting documentation to be considered for incentives. In most cases, BOI decides within sixty days whether or not a project is eligible for investment privileges. BOI typically completes its review of applications for projects valued in excess of 750 million baht (approximately US$22 million) within 90 days.

The maximum allowable debt-to-equity ratio is 3:1 for a newly established project, but expansion projects are considered on a case-by-case basis. With the exception of electronic and agricultural investments, projects valued less than 500 million baht (about US$15 million), regardless of overall investment size, must produce added value equal to at least 20 percent of sales revenue. For projects valued more than 500 million baht (about US$15 million), excluding land and working capital, a feasibility study must be presented at the time of application. Adequate environmental protection systems must be installed for projects with a potential environmental threat.

BOI's priority areas for investment privileges include:
- agriculture and agricultural products;
- environmental protection and/or restoration;
- direct involvement in technological and human resource development;
- public utilities, infrastructure, and services;
- Mining, ceramics and basic metals;
- Light industry;
- Metal products;
- Chemicals, paper and plastic;
- Services and public utilities.

Other targeted industries include agro-industry, automotive, information technology/electronics, high value-added services, semi-conductors, manufacture of machinery and equipment, software parks, and high-quality upstream steel. In 2009, BOI expanded the list of eligible businesses for promotion to include four additional sectors:
- technology and healthcare, specifically the production of nano-technology materials or products;
- manufacture of musical instruments;
- manufacture of 'completely built unit' (CBU) houses or 'completely knock-down' (CKD) houses; and
- service-related industrial estates, as well as activities related to tourism and tourism-related real estate.

State-enterprise projects are not eligible for BOI promotion, but concession projects (either Build Transfer Operate or Build Operate Transfer) by the private sector are eligible with some restrictions. For privatization of state enterprises, only expansions after the

privatization are eligible for BOI promotions.

BOI actively encourages investment in the least-developed provinces of Thailand, offering maximum incentive packages to projects that locate in one of these provinces. BOI typically classifies these provinces as those whose average per capita income has been below 85 percent of the national average during the previous three years. These provinces have included: Sisaket, Nong Bua Lamphu, Surin,

Yasothon, Maha Sarakham, Nakhon Phanom, Roi-Et, Kalasin, Sakon Nakhon, Buri Ram, Amnat Charoen, Phraea, Phayao, Nan, Satun, Pattani, Yala, and Narathiwat.

In June 2004, BOI introduced special investment privileges to promote investment in four northeastern provinces, namely Chiayaphum, Nong Khai, Ubon Ratchathani, and Udon Thani. With this designation, all operations located in these four provinces will receive special privileges, regardless of their location within or outside of an industrial estate. These incentives include:

- A 50 percent reduction in corporate income tax for an additional five years beyond the initial 8-year exemption;
- Double income tax deduction of costs for transportation and utilities for a period of 10 years;
- Deduction of 25 percent of the project's infrastructure construction costs from net profit (for tax purpose) for a period of 10 years.

In an attempt to revive the economies of the three southernmost provinces (Pattani, Yala, and Narathiwat), BOI launched a special package for investment projects in the area in mid-2007. The package includes maximum tax incentives, including eight-year corporate income tax holidays plus a 50 percent reduction on corporate income tax for the following five years, an exemption of import duties on machinery and raw materials, and deduction of infrastructure construction and installation cost up to 25 percent of capital investment. The applicable period for double deduction of public utilities and transportation costs was extended to 15 years. In 2009, BOI broadened the investment promotion scope to allow all types of eligible activities to apply for the promotion incentives in Pattani, Yala, and Narathiwat. In addition, the deadline for applications was extended from December 2009 to December 2012.

As part of its policy to encourage investment throughout the country, BOI divides the country into three zones: Zone 1 (Bangkok and 5 surrounding provinces), Zone 2 (a grouping of 12 other provinces), and Zone 3 (the remaining 58 provinces). BOI promotes the relocation of projects from Zone 1 to Zone 2 and Zone 3; however, in order to be eligible for new incentives, these projects must relocate to an industrial estate or a promoted industrial zone.

A three-year income tax holiday applies to qualifying investments in Zone 1 and Zone 2, but in Zone 2 if the project is located in industrial estates or promoted industrials zones, the period for income tax holiday increases to seven years. Projects with capital investment of 10 million baht (about US$300,000) or more may be eligible for an income tax holiday of eight years if it is relocated to Zone 3. Projects must obtain ISO 9000 or similar international standard certification within 2 years from their start-up date or the income tax holiday period will be reduced by one year. To improve the corporate governance, BOI sets a cap on a project's corporate income tax holiday at 100 percent of invested capital. In September 2002, BOI relaxed its zoning requirement to promote expansions and cluster development. Projects formerly required to locate in Zones 2 or 3 are now free to expand wherever they wish. On environmental protection grounds, however, tanneries, bleaching and dying plants, cyanide-based heat treatment facilities, and facilities for the recycling/re-use of unwanted materials are ineligible for this zoning relaxation.

Majority or total foreign ownership is permitted for BOI-approved investment projects in the manufacturing sector; however, for projects in agriculture, animal husbandry, fishery, mineral exploration and mining, and service businesses under Schedule One of the Foreign Business Act of 1999, Thai nationals must hold shares

totaling not less than 51 percent of the registered capital.

Investment conditions and incentive packages differ for regional operating headquarters (ROHs), which are defined by BOI as companies or partnerships that provide managerial, technical, or supporting services to an associated enterprise or domestic or foreign branches. ROH business projects with registered capital of at least 10 million baht (approximately US$300,000), and in which overseas revenue accounts for at least half of annual income, are eligible to receive BOI incentives, such as permission to own land, eased provisions for hiring expatriate staff, and additional tax breaks (such as a preferential corporate income tax rate of 10 percent versus 30 percent and a flat 15 percent personal income tax rate for foreign employees for four years). In July 2008, BOI waived import tariffs on machines for research and development for ROHs in order to attract more investments. In September 2009, BOI set up a working committee to revise the ROH regulations and improve corporate income

tax incentives related to ROH activities, but the results have not been announced. There are currently 81 BOI-promoted ROH projects, most of which are in the manufacturing and service sectors, including U.S. companies such as Exxon Mobil Co., Ltd., Chevron Asia South Co., Ltd., General Motors Southeast Asia Operations Co., Ltd., and Ford Services (Thailand) Co., Ltd.

In 2005, BOI introduced tax incentives to help boost investments in Thailand's electrical and electronics industries. In order to qualify for these incentives, companies must be long-term investors with total investment of at least 15 billion Baht (approximately US$450 million). The incentives include 8-year corporate income tax exemption periods for projects in Zone 3. However, priority activities such as production of solar wafers and solar cells, will receive 8-year corporate income tax holidays regardless of project location. BOI also granted duty exemptions for all electrical and electronics projects, including shorter-term projects, permitting duty-free imports of upgraded or replacement machinery for the life of the project. In addition, BOI also expanded zone-based fiscal incentives for Zone 1 and Zone 2 (Bangkok and surrounding provinces) for electrical and electronics projects. For example, projects in Bangkok located outside of industrial estates were previously ineligible for corporate income tax holidays; however, these projects now are eligible for 5-year exemptions.

BOI has also extended tax incentives to the automotive machinery sector so that automobile assemblers are eligible for import duty exemptions on machinery, regardless of the BOI geographic investment zone in which they operate. Total initial investment costs for eligible projects must be at least 10 billion Thai baht (approximately US$300 million). BOI also made "call center" facilities eligible for tax incentives; however, to be eligible, the project must be majority Thai-owned.

Right to Private Ownership and Establishment

Private entities may establish and own business enterprises. The principal forms of business organization under Thai law are sole proprietorships, partnerships, limited companies, and public limited companies. In addition, branches of foreign corporations are recognized, and a "representative" or "liaison" office of a foreign company may receive special recognition. Regardless of the form of business organization, most businesses must apply for business registration. Establishment of a business in certain sectors by a foreign entity may be restricted by the Foreign Business Act, or for U.S. investors may benefit from the Treaty of Amity and Economic Relations (AER) as discussed above.

A Thai public limited company is similar to a corporation in the United States, and may be wholly owned by a foreigner unless the corporation is involved in a business activity reserved for Thai nationals. A public limited company is allowed to offer its shares to the public. Eight laws pertaining to individual industries limit foreign ownership of companies listed on the Stock Exchange of Thailand.

Protection of Property Rights

Property rights are guaranteed by the Constitution against condemnation or nationalization without fair compensation. Secured interests in property are recognized and enforced. Thailand has a civil law system under which all laws are embodied in statutes or codes promulgated by the government. This practice is in contrast to the common law system in many Western countries, where court interpretations of statutes serve as governing legal precedent. There is an independent judiciary that provides a forum for settlement of disputes. Agencies of the government, as parties to commercial contracts, may be sued in the courts, and cannot raise a defense of sovereign immunity. However, state property is not subject to execution. There are four basic codes: Civil and Commercial Code, Criminal Code, Civil Procedure Code, and Criminal Procedure Code. In adopting these codes early in the twentieth century, Thailand selected features of the two major Western legal systems (common law and civil law), and adapted to circumstances in Thailand provisions drawn from Britain, Germany, Switzerland, France, Japan, Italy, India, and other foreign systems. Decisions and rulings of the judiciary and civil service can have considerable force as precedents.

There are three levels to the judicial system in Thailand: the Court of First Instance, which handles most matters at inception, the

Court of Appeals, and the Supreme Court. There are specialized courts such as the Labor Court, Family Court, Tax Court, the Central Intellectual Property and International Trade Court, and the Bankruptcy Court.

Widespread counterfeiting and piracy continue to plague intellectual property rights owners in Thailand. Particular areas of concern include counterfeiting of pharmaceuticals, cosmetics, apparel, and accessories. Piracy rates are high for motion pictures, music, business and entertainment software. The lack of sustained and coordinated enforcement, and, in particular, the failure to prosecute and penalize high-level offenders, remains a substantial problem. The vast majority of criminal IP cases in Thailand are brought against retailers caught with relatively little infringing product. In addition to problems with counterfeiting and piracy, rights holders cite concerns about long delays in the patent process due to the large backlog of unexamined patent applications. Due to these concerns, Thailand has been on the Special 301 Priority Watch List since 2007.

Thailand amended its legal regime to comply with the WTO Agreement on Trade Related Aspects of Intellectual Property (TRIPs) in the mid 1990s, but questions remain about Thailand's implementation of obligations to protect pharmaceutical and agricultural test data from unfair commercial use, treatment of conflicting trademarks and geographical indications. Since that time, Thailand has not kept pace with international IP legal developments, in areas such as broadcasting and digital copyright. Thailand is signatory to long-standing IP agreements such as the Berne and Paris Conventions, but not the World Intellectual Property Organization Copyright Treaty (WCT) or Performances and Phonograms Treaty (WPPT). Thailand acceded to the Patent Cooperation Treaty in 2009.

Transparency of the Regulatory System

In 1999, Thailand enacted the Trade Competition Act together with the Price of Merchandises and Services Act, replacing the 1979 Price-Fixing and Anti-Monopoly Law. The laws were intended to strengthen the government's ability to regulate market monopolies and price fixing. The Trade Competition Act applies to all business activities with the exception of state-owned enterprises, cooperatives, agricultural and cooperative groups, government agencies, and certain enterprises exempted by the law. The law established a Trade Competition Commission with the authority to place limitations on market share and revenues of firms with substantial control of individual market sectors, to block mergers, and other forms of business combinations, and to levy fines for

price-fixing and other proscribed activities. Since the law's implementation, several foreign motorcycle distributors were found guilty of violating the law by forcing sales agencies to sell only their brands.

The government continues to have the authority to control the price of specific products under the Price of Merchandises and Services Act. The Department of Internal Trade under the Ministry of Commerce administers this law and interacts with the affected companies although only the "Committee on Price of Merchandise and Service" make the final decision on what products to add or remove from price controls. As of December 2009, out of 39 controlled commodities and services, only sugar is subject to a price ceiling. Besides the 39 controlled commodities, practically any producer of consumer products is prohibited from raising prices without first notifying the Committee of its intention to do so. The government also uses its controlling stakes in major suppliers of products and services such as Thai Airways and PTT to influence prices in the market.

Thailand has extensive legislation aimed at the protection of the environment, including the National Environmental Quality Act, the Hazardous Substances Act, and the Factories Act. Food purity and drug efficacy are controlled and regulated by a Food and Drug Administration with authority similar to its U.S. counterpart. Likewise, labor and employment standards are set and administered by the Ministry of Labor.

Despite the good intentions of most regulatory regimes, consistent and predictable enforcement of government regulations remain problematic for investment in Thailand. Gratuity payment to civil servants responsible for regulatory oversight and enforcement remains a common practice. Through such payment, transactions can be expedited. Firms that refuse to make such payments can be placed at a competitive disadvantage when compared to other firms in the same field. However, most observers believe that the overall trend toward

transparency in regulatory enforcement is positive, especially for foreign-owned businesses.

Efficient Capital Markets and Portfolio Investment
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The Thai government maintains a regulatory framework that broadly encourages investment and largely avoids market-distorting support for specific sectors. Government policies generally do not restrict the free flow of financial resources to support product and factor markets, and credit is generally allocated on market terms rather than by "directed lending." Legal, regulatory, and accounting systems are largely transparent, despite significant problems in some areas. The Thai government has devoted considerable effort to bringing these systems into line with international norms, and important progress has been made. However, much remains to be done to implement the legal and regulatory changes, and human resource constraints will limit overall progress in some areas, particularly auditing, for the foreseeable future.

In 2002, Thailand established the National Corporate Governance Committee (NCGC), chaired by the Prime Minister, to implement international-standard corporate governance policies. In conjunction with Thai Rating and Information Services Co., Ltd. (TRIS), the Stock Exchange of Thailand (SET) and the Thai Securities and Exchange Commission (SEC) began rating companies on their corporate governance practices. The NCGC claimed that Thai corporate governance policies cover most key points addressed by the Sarbanes-Oxley Act in the U.S.

Foreign investors are not restricted from borrowing on the local market, but there are a number of regulations that affect foreign portfolio investment. Thailand maintains regulatory maximum foreign ownership limits, and shares of listed companies are traded on both a domestic and alien (or foreign) board to enable authorities to track foreign ownership. Limits on foreign ownership of Thai companies are perhaps most prominent in the financial sector. Under the new Financial Institutions Business Act (implemented in August 2008), foreign share holders may retain a 49 percent stake in

financial institutions, up from 25 percent under the previous acts. Foreign ownership between 25 percent and 49 percent requires prior approval from the Bank of Thailand. The new law also allows the Ministry of Finance to authorize foreign ownership above the 49 percent limit with the recommendation from the Bank of Thailand if deemed necessary to support the stability of the overall financial system in an economic crisis. This type of emergency action also requires the support and approval of the Minister of Finance. In theory, the private sector has access to a wide variety of credit instruments, ranging from fixed term lending to overdraft protection to bills of exchange and bonds. However, private debt markets are not well-developed, and most corporate financing, whether for short-term working capital needs, trade financing, or project financing, is commercial bank or financial institution borrowing. The Ministry of Finance is working on developing Thailand's debt markets.

Following the 1997 financial crisis, banks generally overhauled their lending systems and have since taken a more conservative approach. Thai borrowers were also reluctant to take on more debt due both to overcapacity and a desire to maintain clean balance sheets. In recent years, external factors such as problems in the U.S. sub-prime market raised the volatility of international investment flows and the global financial system, adding risks to Thailand's overall macroeconomic and financial stability. Due to perceived increased risk and ongoing concerns about their credit quality since the global economic downturn, financial institutions have tightened their credit standards for loans and credit lines to enterprises, as well as to households despite minimum exposure to sub-prime market debt papers. After peaking at 47 percent of total lending in May 1999 from the financial crisis, net non-performing loans slowly declined to stand at 2.94 percent of total loans in September 2009. Total assets of the country's largest six banks stood at 7 trillion Thai baht (approximately US$211 billion) or 77 percent of GDP as of September 2009.

The Thai Asset Management Corporation (TAMC), which was established in 2001, is a major component of the government's financial reform plan with broad legal powers to expedite debt restructuring and press creditors and debtors to the negotiating table. Assets are transferred at collateral value, excluding personal guarantee, with payment coming in the form of ten-year non-negotiable bonds issued by TAMC and guaranteed by the Financial Institution Development Fund (FIDF), a financial arm of the Bank of Thailand. Interest paid by

the bonds is tied to average deposit rates quoted by Thailand's five largest banks. According to the decree that created TAMC, the corporation will be resolved in June 2011. All remaining assets will be sold to the former institutional transferors (commercial banks, finance companies, private asset management companies) at an agreed price. If the former institutional transferors are not willing to repurchase such assets, TAMC will sell the assets to the other two smaller state asset management companies, Sukhumvit Asset Management and Bangkok Commercial Asset Management.

In addition to legal limits on foreign ownership in certain sectors, Thai firms employ defenses against foreign investment primarily through cross- and stable-shareholding arrangements. Such defenses against hostile takeovers are typically applied against all potential investors, rather than against foreign potential investors alone. Companies are permitted to specify limits on foreign ownership more strict than those established by the government. In general, limits on foreign ownership and participation in the Thai economy have eased since the Asian Financial Crisis.

Competition from State-Owned Enterprises

State-owned enterprises operate primarily in the utility, energy, telecommunications, banking, tobacco, and transportation sectors. At the end of 2008, Thailand's 58 state-owned enterprises had revenues of around 4.8 trillion Thai baht (approximately US$145 billion), employed approximately 290,000 people (0.8 percent of the Thai labor force), and accounted for approximately 53 percent of Gross Domestic Product (GDP).

Private enterprises are generally not allowed to compete with state-own enterprises (SOEs) under the same terms and conditions with respect to access to markets, credit, and other business operations such as licenses and supplies, except in the banking sector. The government announced its intention to allow more private companies to compete with SOEs, in particular in the telecommunications, energy, and transport sectors. The government regularly allocates three to four percent of its annual budget expenditures to fund the SOEs. The government can temporarily provide short-term credit facilities, loan guarantees, or capital injections for troubled SOEs. This assistance usually focuses on those SOEs that have not been corporatized or are operating in loss.

Corporate board seats are typically allocated to senior government officials or other politically-affiliated individuals. All SOEs are required by law to submit annual financial reports to the Office of the Auditor General. Publicly-listed state-owned enterprises, such as Thai Airways, are required to publish their financial reports. As for procurements, state-owned enterprises, like government agencies, reserve the right to accept or reject any or all bids at any time and may also modify the technical requirements during the bidding process, if, according to regulations, corruption is suspected. The latter provision allows considerable leeway to state-owned enterprises in managing procurements, while denying bidders recourse to challenge procedures. Allegations frequently surface that changes are made in procurements.

Thailand currently does not have a sovereign wealth fund.

Corporate Social Responsibility (CSR)

There is wide recognition and awareness of the value of corporate social responsibility (CSR) initiatives among Thai producers and consumers, but many companies still lack a full understanding of the generally accepted CSR principles such as the OECD Guidelines for Multinational Enterprises. CSR is most often identified as individual philanthropic projects or community service of companies, rather than as an overall corporate strategy aimed to improve the community in which the companies operate. Companies that pursue CSR are viewed favorably by the public.

Many business associations, including the American Chamber of Commerce, are actively supporting the development of CSR programs in Thailand. Since 2007, the American Chamber of Commerce Corporate Social Responsibility Excellence Awards have encouraged the expansion of CSR programs by identifying best practices of companies in Thailand.

Political Violence

Throughout the second half of 2008, a political protest group called the People's Alliance for Democracy (PAD) held large demonstrations against the government. In late August 2008, PAD protestors occupied Government House, where the Prime Minister's Office is located; they held the compound for months. PAD protestors also occupied Bangkok's civilian airports on November 25, 2008, impeding the facilities' functioning and departing only on December 3, 2008, following the collapse of the government headed by then-Prime Minister Somchai Wongsawat. During late 2008, there were occasional firearms discharges and explosions in the vicinity of the Government House compound and the airports, when they were under PAD occupation. The explosions seemed intended to injure PAD sympathizers. Several people died as a result, and dozens were injured.

Protestors sympathetic to former Prime Minister Thaksin Shinawatra, and opposed to PAD and the current government, have also held large rallies in Bangkok. This group of Thaksin supporters is known as the United Front for Democracy Against Dictatorship, aka the "red-shirts," and they commenced demonstrations against Prime Minister Abhisit in early 2009, culminating in the disruption of a

major regional Asian summit in Pattaya and riots in the streets of Bangkok in April of 2009. Subsequent red shirt protests in 2009 unfolded peacefully, though concerns about the group's plans for large scale demonstrations in 2010 remain.

An important political problem for the Thai government is the ongoing political violence in Thailand's southern-most provinces (Yala, Narathiwat, and Pattani). Efforts to quell the ethno-nationalist insurgency, which has led to over 3,000 deaths since 2004, have not yet had much effect.

Tensions with Cambodia persist. Cambodia and Thailand dispute sections of their historic boundary; Cambodia has accused Thailand of encroaching into Cambodian territory and obstructing access to Preah Vihear temple ruins awarded to Cambodia by ICJ decision in ¶1962. Cambodia's decision to appoint former Prime Minister -- and fugitive -- Thaksin as a financial adviser to Cambodia has accentuated these tensions.

Corruption

Thailand has laws to combat corruption. The independent National Counter-Corruption Commission (NCCC) coordinates official efforts against corruption. In December 2003, Thailand became a signatory to the U.N. Convention against Corruption but delayed ratification pending a review of legal issues. In April 2005, Thailand endorsed the ADB-OECD Anticorruption Action Plan for Asia and the Pacific, and assigned Ministry of Justice to implement the Action Plan.

American executives with long experience in Thailand advise new-to-market companies that it is far easier to avoid getting started with corrupt transactions than to stop such practices once a company has been identified as willing to operate in this fashion. American firms that comply with the strict guidelines of the Foreign Corrupt Practices Act are able to compete successfully in Thailand.

Recent Thai administrations have stated publicly their intention to improve transparency in the evaluation of bids and the awarding of contracts. Despite recent improvements, both foreign and Thai companies continue to complain about irregularities in the Thai Customs Department. Increasing media scrutiny of public figures has raised political pressure to curtail favoritism and corruption. However, convictions against public officials on corruption-related charges are rare, and the legal system offers inadequate deterrence against corruption.

The press features frequent allegations of irregularities in public contracts, most notably over the use of public lands, procurement favoritism (e.g., revising requirements so that a preferred company wins over its competitors), and police complicity in a variety of illegal activities. In January 2010, the Thai press widely reported news of the indictment in the U.S. of a former Thai Tourism minister accused of taking bribes from a Hollywood couple seeking to do business in Bangkok. In December 2009, the Minister of Public Health and Deputy Minister of Public Health resigned over allegations of corruption in a medical supplies procurement deal. According to some studies of Thailand, a cultural propensity to forgive bribes as a normal part of doing business and to equate cash payments with finders' fees or consultants' charges, coupled with the low salaries of civil servants, encourages officials to accept illegal inducements.

Bilateral Investment Agreements

The 1966 iteration of the U.S.-Thai Treaty of Amity and Economic Relations (AER), discussed above, allows U.S. citizens and businesses incorporated in the U.S., or in Thailand that are majority-owned by U.S. citizens, to engage in business on the same basis as Thai nationals. Under the AER, Thailand is permitted to apply restrictions to American investment only in the fields of communications, transport, banking, the exploitation of land or other natural resources, and domestic trade in agricultural

products.

In October 2002, the U.S. and Thailand signed a bilateral Trade and Investment Framework Agreement (TIFA). The TIFA establishes a Trade and Investment Council (TIC), which serves as a forum for discussion of bilateral trade and investment issues such as intellectual property rights, customs, investment, biotechnology, and other areas of mutual concerns.
Thailand also has bilateral investment agreements with 42 countries, including Germany, the Netherlands, the United Kingdom, China, and members of the Association of Southeast Asian Nations (ASEAN). These agreements establish guidelines for expropriation compensation and the repatriation of capital, but do not include national treatment provisions.

OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) can provide political risk insurance for inconvertibility and transfer, expropriation, and political violence for U.S. investments including equity, loans and loan guarantees, technical assistance, leases, and consigned inventory or equipment. OPIC Insurance is currently insuring three U.S. corporations/organizations involved in telecommunications, humanitarian services, and economic development in Thailand. Most recently, OPIC provided insurance to the Asia Foundation. OPIC direct loans and loan guarantees are also available for business investments in Thailand, and cover sectors as diverse as tourism, transportation, manufacturing, franchising, power, and others. Historically, OPIC has committed over US$32.5 million in financing to investments in Thailand. In addition, OPIC supports seven equity funds that are eligible to invest in projects in Thailand.

OPIC established a special line of credit of up to US$175.75 million to mobilize U.S. private sector investment in the reconstruction of nations devastated by the December 2004 tsunami. The credit line was part of an OPIC Tsunami Reconstruction Finance Initiative intended to help speed the rehabilitation of housing and infrastructure in affected countries, including Thailand. Thailand became a member of the Multilateral Investment Guarantee Agency (MIGA) in October ¶2000.

OPIC-financed loans of up to US$200 million per project are also available for business investments in Thailand, and cover sectors as diverse as tourism, transportation, manufacturing, franchising, power, and others. In addition, OPIC supports six new private equity funds that are eligible to invest in clean and renewable energy projects in emerging markets worldwide, including Thailand. Through OPIC, investors have access to political risk insurance, debt financing, and equity.

Labor

According to the National Statistics Office, as of October 2009, Thailand has a labor force of 37.66 million workers out of a total population of 67 million. This figure includes Thai nationals fifteen years of age or older. The official unemployment rate averaged 1.61 percent during 2009, but the rate is calculated with a very generous definition of employment and does not include an estimated one to two million seasonally unemployed agricultural workers. As a result of the global economic downturn, the manufacturing sector began to show signs of increased unemployment since the last quarter of 2008, but the situation improved in the latter half of 2009. The agricultural and service sectors have been able to absorb the unemployed works from the manufacturing sector, keeping the overall rate very low.

The Thai government's decision not to forcibly repatriate large numbers of foreign migrant workers in the agriculture, fisheries,

construction, household service, and other semi-skilled sectors may also have affected employment levels. Since 2004, the Thai government has allowed illegal migrant workers from the neighboring

countries of Laos, Cambodia, and Burma, to register with the government to legally stay and work in Thailand. As of December 2009, there were more than a million migrants registered with the Thai government; however, private and government sources estimate that the number of illegal migrants currently living and working in Thailand could be as high as 1.5 to 3 million.

Despite past rapid growth in the industrial and service sectors, 37 percent of the Thai labor force is still employed in the agricultural sector. However, the shift of workers from agriculture is continuing, especially in the Northeast, where agricultural productivity and investment are lower. As a consequence, recent years have seen a constant flow of rural, generally unskilled Thais seeking work in Bangkok and the more industrialized regions, both seasonally and on a permanent basis. This ready availability of migrant labor contributed to the rapid growth of Thailand's industrial and construction sectors.

In the past, many multinational firms brought in expatriate professionals because qualified local personnel simply were not available, even at high salaries. Finding, training, and retaining qualified employees to work in the manufacturing facilities being developed in industrial estates, such as those along the Eastern Seaboard, will continue to be a challenging government priority.

The labor relations climate is generally peaceful, and formal strikes are infrequent. There were two worker strikes recorded in 2008 and four employer lockouts. Less than two percent of the total labor force is unionized; unionization rates are high only in state enterprises. As of December 2008, there are 44 state-owned enterprise unions with 175,000 members, and 1,229 private labor unions with 341,520 members.

The Labor Protection Act, enacted in 1998, brought labor practices more in line with International Labor Organization (ILO) standards. The law cut the workweek to a maximum of forty-eight hours, including overtime for all types of work, with overtime payable at one and one-half times the hourly rate. Hazardous work may not exceed seven hours per day or forty hours per week. All employees are entitled to a vacation of six workdays per year, in addition to thirteen holidays traditionally observed in Thailand. Under the labor law, the employment of children under the age of fifteen is prohibited, and there are restrictions on the employment of children and youths between the ages of fifteen and eighteen.

The Thai government amended the Labor Protection Act in 2008 to help promote standards for contract labor. The Act now requires an employer to provide benefits and welfare without discrimination to the contract laborers. The Act also extended protection for employees against sexual abuse and harassment in the workplace.

Foreign Trade Zones/Free Ports

The Industrial Estate Authority of Thailand (IEAT), a state-enterprise under the Ministry of Industry, established the first industrial estates in Thailand, including Laem Chabang Industrial Estate in Chonburi Province and Map Ta Phut Industrial Estate in Rayong Province. More recently, private developers have become heavily involved in the development of these estates. The IEAT currently operates 11 estates, plus 30 more in conjunction with the private sector in 14 provinces nationwide. Private sector developers operate over 50 industrial estates, most of which have received promotion privileges from the Board of Investment.

In addition, the IEAT established thirteen special IEAT Free Zones (renamed from export processing zones or free trade zones), reserved for the location of industries manufacturing for export only, to which businesses may import raw materials and export finished products free of duty (including value added tax). These zones are located within industrial estates, and many have customs facilities to speed processing. The free trade zones are located in Chonburi, Lampun, Pichit, Songkhla, Samut Prakarn, Bangkok (at Lad Krabang), Ayuddhya, and Chachoengsao. In addition to these zones, factories may apply for permission to establish a bonded warehouse within their premises to which raw materials, used exclusively in the production of products for export, may be imported duty free.

Foreign direct investment (FDI) (net inflows from non-banking sector only), totaled US$4.4 billion in 2009 (Jan-Oct), compared with US$7.6 billion in 2008 (full year), and US$10.2 billion in 2007 (full year). The sectors that received large amounts of FDI included machinery and transport equipment (US$1.2 billion), electrical appliances (US$1.0 billion), real estate (US$658 million), metal and non-metallic (US$355 million), and food and sugar (US$208 million) sectors.

Japan was the largest source of FDI in 2009 (Jan-Oct) at US$1.86 billion, followed by Hong Kong at US$436 million and Singapore at US$172 million. U.S. FDI was ranked fourth at US$124 million. The sharp decline of FDI in 2009 could be largely explained by the global economic recession and domestic political tension. There are no reliable statistics available for cumulative investment by country of origin.

The Embassy estimates the total present value of U.S. investment in Thailand to be in excess of US$23 billion. From January to November 2009, BOI approved 36 investment projects by U.S. firms, totaling approximately US$770 million, including one major automotive investment with an estimated value of US$606 million. Other major U.S investments included the following (note that a U.S. investment is classified as any investment with at least ten percent U.S. capital, and the companies listed below are based on January to June 2009 data only; projects could be either an expansion or a newly established project):

- Pepsi-Cola (Thai) Trading Company Limited with 104.3 million baht (US$3.2 million) investment;

- Siam Steel Mill Services Ltd. with 93.8 million baht (US$2.8 million) investment in disposal services of industrial waste;

- Solarlens Company Ltd. with 90.2 million baht (US$2.7 million) investment in coated lens manufacturing.